



San Diego City Attorney MICHAEL J. AGUIRRE

NEWS RELEASE

FOR IMMEDIATE RELEASE: December 6, 2004

Contact: Maria Velasquez, Press Secretary: (619) 235-5725 (pager & voicemail) mvelasquez@saniego.gov

Michael J. Aguirre, San Diego City Attorney INAUGURAL ADDRESS Golden Hall, San Diego Civic Center

A little more than a year ago, I began my candidacy for City Attorney with these words from President John F. Kennedy: “[W]e need a government that is honest, a government that is efficient, a government that is dedicated, and a government that is committed solely to the public interest.”

Today, I begin my duties as your San Diego City Attorney with a pledge--that the San Diego City Attorney's office will do its utmost to attain for the people of San Diego the government President Kennedy challenged us to achieve. That promise is to make politics more responsive and justice more achievable.

Today, San Diego is confronted by the most serious legal and financial crisis in our history. So, my duty as your City Attorney requires I use this first occasion to “speak the truth, frankly and boldly” about the legal causes of our financial difficulties. The facts speak for themselves:

- The United States Attorney and the FBI are investigating city officials and employees involved in issues related to the pension fund,
- The City has not issued a certified financial statement since June 2002,
- The City's outside auditor has refused to issue a certification for our 2003 financial statement until outside legal counsel completes a second investigation into alleged illegal acts by City officials.
- Earlier in the year, the former city auditor and the former city manager resigned.
- The City is paying the legal bills for criminal defense lawyers representing present and former city officials,

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1200 Third Avenue, Suite 1620, San Diego, California 92101-4188 (619) 236-6220

- **The City is paying millions of dollars to outside legal counsel, auditors, and experts in connection with the city's stalled 2003 audit because of more alleged illegal acts by city officials,**
- **And, the City is running out of money. It does not even have enough to pay for new water and wastewater projects required under a federal consent decree, and it may have to scrap plans to fix fire and lifeguard stations.**

In addition, respected members of our community have argued that some city officials have adopted a legal strategy that pits the city against the FBI, U.S. Department of Justice, the Securities & Exchange Commission and our own outside auditors.

These citizens see city officials using public funds to buffer themselves or others from accountability under criminal laws and regulations. At the same time they see federal authorities and our own outside auditor trying to get city officials to obey fundamental and basic city, state and federal laws prohibiting fraud and misuse of public funds.

The casualties of this legal war are the innocent people of San Diego. They ask and wonder:

- **Why has it taken over one year to get our 2003 financial statement certified?**
- **How is it possible that the city's retirement system is organized so that retired employees make more money than when they working?**
- **How can the retirement system have an unfunded liability of over \$1.2 billion?**
- **How could the City have issued bonds without disclosing its massive liability to the pension plan?**
- **What illegal acts have our auditors identified that need to be investigated?**
- **Why are we paying the legal bills of past and present city officials under criminal investigation?**
- **Will our credit rating ever be restored so we can issue the bonds we need for water, sewer, fire stations, and other essential needs of the City?**

We have no satisfactory answers to these questions and we will not have them until a new generation of leadership takes hold of our city government.

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Effectively immediately, I have asked the new head of the criminal division, Rupert Linley, to restore the City Attorney's Criminal Division's Public Integrity Section. Under this new mandate, we will work to restore government integrity. We will investigate and prosecute violations of laws, conflicts of interest, and criminal waste, fraud, and abuse of city resources.

The City Attorney should be the first line of attack on these problems. It is no coincidence that the abandonment of the City Attorney's public integrity unit over the last several years helped create the environment in which these questionable financial practices took place.

Mr. Linley, who will personally supervise the unit, has over 30 years' experience as a former special assistant United States Attorney and as the former deputy district attorney who organized the public integrity unit for former District Attorney Edwin A. Miller, Jr.

Moreover, the City Attorney's Office will not remain on the sidelines and watch San Diego slide deeper into the financial abyss. As your City Attorney, I will work closely with federal and state agencies to ensure the public's confidence in the integrity of its public officials and employees.

To help achieve this goal, we will safeguard the public's right to provide input, and ensure access to all documents to which they are entitled under the California Public Records Act, the Brown Act and the City Charter.

The San Diego City Attorney will act to ensure that any conflicts between our city charter, the municipal code, and the state law are reconciled. In cooperation with the mayor and city council, we will also be undertaking all legal work needed to institute the strong mayor form of government that San Diego voters chose on November 2.

Over the past several days, I have met with the dedicated men and women of the San Diego City Attorney's office. They are committed to protecting the people's legal rights and interests. Beginning today, we will work together to make our office the most citizen friendly in all of city government. Whether you are a community planning group advocate, a businessperson looking to cut red tape, or a labor official seeking enforcement of laws protecting workers, you will be welcome.

On April 7, 1931, an independent citizens' commission supported by 75% of San Diego voters agreed that the City Attorney should be independently elected in order to "guarantee that the legal head of the government will be able to fearlessly protect [the] interests of San Diego and not merely be an attorney appointed to carry out [the] wishes of [the] council or manager." I am proud the citizens of San Diego have given me this opportunity.

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I know we can overcome our current difficulties. Working together we can create the kind of open, honest, fiscally sound, public-spirited and legal city government that we all want. You made that decision on November 2, and with your support, today, we have taken the first step.

Beyond these difficult days, lies a new and better San Diego. Great problems do offer great opportunities. San Diego will be a powerful and safe city when we seize these opportunities, openly address the problems, and rediscover the means to include the people of San Diego in the solutions.

Thank you.

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